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8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 In re) Bankruptcy Case No. 08-40404 LT-13
11 JEREMY DEWAYNE CARRIER, and) Chapter 13
12 CATHLYN MELANIE CARRIER)
13 Debtors) RESPONSE TO OBJECTION TO PROOF OF
14) CLAIM #11-2 OF ECAST SETTLEMENT
15) CORP./ HSBC
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COMES NOW, eCAST Settlement Corp., assignee of HSBC Bank Nevada, N.A., a secured creditor,
and hereby responds to the Debtor's Objection to Proof of Claim #11-2.

MEMORANDUM OF POINTS AND AUTHORITIES

1. On November 8, 2005, Debtor Cathlyn Carrier opened a revolving Best Buy credit account with HSBC Bank Nevada, N.A. (See Exhibit A, attached and incorporated by reference herein). The last 4 digits of the credit account are 6481. The debtor granted HSBC a purchase money security interest in the goods purchased on the account. (See Exhibits A & B, attached and incorporated by reference herein).
2. The debtor used the account to finance purchases from time to time. Specifically, the debtor used the account to purchase a notebook processor for \$699.99 and color fax/copier/printer for \$299.99 on March 12, 2007. (See Exhibit C, attached).

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- 1 3. The debtor filed for chapter 13 bankruptcy protection on January 29, 2008, less than one year
2 after her March 12, 2007 purchase of goods. HSBC timely filed a proof of claim on May 19,
3 2008.
- 4 4. eCAST Settlement Corporation subsequently purchased debtor's account and filed a Transfer
5 of Claim document on July 17, 2008.
- 6 5. On July 23, 2008, eCAST amended HSBC's original proof of claim to add the
7 documentation showing evidence of the security interest and describing the collateral
8 purchased. Included with the amended proof of claim were copies of the credit application,
9 the cardholder agreement, and a copy of the March 12, 2008 sales ticket showing debtor's
10 purchase of collateral for \$999.98.
- 11 6. On November 7, 2008, Debtor filed an objection to eCAST's proof of claim, stating that the
12 "[s]ecurity is of no value." The debtor requested that the claim be allowed as a general
13 unsecured nonpriority claim.
- 14 7. Pursuant to the "hanging paragraph" in 11 U.S.C. §1325, the cram down provisions of 11
15 U.S.C. §506 do not apply to purchases made within 365 days preceding a bankruptcy filing if
16 the creditor has a purchase money security interest in the goods purchased.
- 17 8. For the forgoing reasons, eCAST Settlement Corporation opposes debtor's objection to Proof
18 of Claim 11-2, and respectfully requests that the claim be allowed as a secured claim in the
19 amount of \$999.98.

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22 Dated: December 1, 2008

KIRBY & McGUINN, A P.C.

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24 /s/ Jana Logan
JANA LOGAN
Attorneys for eCAST Settlement Corp.